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EXAMINER

NGUYEN BA, HOANG VU A

ART UNIT	PAPER NUMBER
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2623

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/043,714

Applicant(s)

BENTOLILA ET AL.

Examiner

Hoang-Vu A. Nguyen-Ba

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed October 10, 2006.
2. Claims 1-21 are pending. Claims 1, 8 and 12 are independent claims.

Response to Amendments

3. The objection to the drawings is withdrawn in view of Applicants' amendments to the drawings.
4. Per Applicants' request, Claims 1-21 have been amended.

Response to Arguments

5. Applicants' arguments with respect to claims 1-21 in the Remarks filed concurrently with the Amendment have been fully considered but are not persuasive. The following is an examiner's response to Applicants' arguments.

Rejection of Claims 1-3 and 5-7 under 35 U.S.C. § 103(a) citing Hendricks et al. (978) in view of Herz et al.

Claim 1:

Applicants' Arguments:

... Hendricks et al (978) does not teach a server-side system let alone a server-side system including a clustering engine for receiving and processing data to generate user profiles targeting a user.

Examiner's Response:

Contrary to Applicants' assertion, Hendricks does teach a server-side system (FIG. 1, item 208, "Cable Headend").

Applicants' Arguments:

... For this teaching of a clustering engine, the Examiner relies on Herz et al....

Herz et al describe a system for scheduling the receipt of desired television data based on customer profiles... In the text associated with Figure 4, referred to by the Examiner, it is noted that "...a customer profile system in accordance with the invention calculates the agreement matrix at the customer's set-top multimedia terminal...." (Col. 41, line 55). These multimedia terminals 412 are located, "...in the homes of the head-end's customers." (Col. 42, line 7) It follows that these terminals are part of a client side system not a server-side system as recited in Claim 1.

Examiner's Response:

The examiner respectfully notes that the Office action cites item 406 (i.e., the "Distribution System") in FIG. 4 to be interpreted to be equivalent to the claimed *clustering engine* (see Office action, p. 4, 5th ¶). As shown in FIG. 4, the distribution system 406 (i.e., the claimed *clustering engine*) is included in the headend 408 (i.e., the claimed *server end*).

Applicants' Arguments:

From this review of the cited patents, it is clear that any modification of Hendricks et al (978) in accordance with Herz et al would not produce the separate server side system and client side system as recited in Claim 1. It should also be noted that there is no teaching in either of these patents that the inventions disclosed by Hendricks et al (978) and Herz et al could be combined to any advantage. This important element, the teaching of the combination from within the prior art, is clearly absent in this rejection. For at least these two reasons, it is suggested that Applicant's invention as set forth in Claim 1 clearly recites a concept which is neither disclosed nor contemplated by the cited art. Accordingly Claim 1, as amended, should be allowable.

Examiner's Response:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347,

21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine is noted by the Office action at p. 4, last ¶, which is to be interpreted in the context of the invention taken as a whole. The advantage of the combination in such a context is to help the customer of video and other data services to receive, with minimal effort, the information he or she is most interested in (1:51-54).

Claim 2

See above discussion with respect to Claim 1.

Claim 3

See above discussion with respect to Claim 1.

Claim 5

Applicants' Arguments:

Claim 5 recites an advertisement manager residing at the server-side system and a behavioral model database in the client side system. In the rejection of Claim 5, the Examiner refers to the network controller 214 in Figure 1 as being analogous to an advertisement manager. However, there is no showing or mention of a behavioral model database in a client side system. Accordingly, any combination including Hendricks et al. (978) would fail to produce an invention as recited in Claim 5.

Examiner's Response:

Applicants' attention is directed to Hendricks' 36:7-24 cited in the Office action as being relevant to the feature recited in Claim 5, especially the claimed *behavioral model database* which is analogous to Hendricks' disclosed Program Scheduling database 320 shown in FIGs. 11-12 as being on the client-side of the system.

Claim 6

Applicants' Arguments:

Claim 6 recites an advertisement manager having the limitations recited in Claims 5 and 1. Neither Hendricks et al (978) nor Herz et al, either individually or in combination, include an advertisement manager having these limitations.

Examiner's Response:

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. As submitted in the Office action at page 6, 2nd ¶, Hendricks' 37:64 – 38:20 teaches that set top terminal correlating group information from the network controller with the user watch/history data to determine which advertising group the user belongs to, the set top terminal would have to store the result in some type of memory/database for the system to function, the operation of the set top terminal would have to be done by an advertising category membership agent/microprocessor.

Claim 7

Applicants' Arguments:

Referring to Claim 7, it will be noted that the television ratings system is recited to further comprise targeting agents and presentation agents disposed at the client side system. Such agents are neither disclosed nor contemplated by the recited references already distinguished in accordance with Claims 1 and 5.

Examiner's Response:

Contrary to Applicants' arguments, the targeting agents and presentation agents are disclosed by Hendricks at 38:32-36 and 13:8-13, respectively as indicated in the Office action at page 7, 1st ¶.

According to the foregoing discussion, the rejection of amended Claims 1-3 and 5-7 under 35 U.S.C. § 103(a) as being unpatentable over Hendricks in view of Herz is considered still proper and maintained.

Rejection of Claim 4 under 35 U.S.C. § 103(a) citing Hendricks (978) in view of Herz et al. and further in view of Eldering

Applicants' Arguments:

In his rejection of Claim 4, the Examiner refers to paragraphs 0033 and 0034 of Eldering. However, these paragraphs do not disclose an aggregation that is representative of both 1) all dimensions most strongly in common for the targeted group, and 2) all dimensions most unique across several of the targeted groups. With these recitations in Claim 4, it is clear that Eldering does not meet the requirements of Claim 4 either individually or in combination with Hendricks et al (978) or Herz et al. Accordingly, at the time of the invention it would not have been obvious to one of ordinary skill in the art to modify the combined systems of Hendricks et al (978) or Herz et al using the profile system of Eldering.

Examiner's Response:

It is respectfully noted that Applicants merely made a general allegation that Eldering does not meet the requirements of Claim 4 instead of showing that the Office action's interpretation of the features recited in Claim 4 is improper. The Office action submits that Eldering's [0033-0034] teach the forming of subgroups (i.e., claimed *aggregation*) for advertising based on viewer profiles (i.e., *dimensions most unique*) and form groups that have a common characteristic (i.e., *dimensions ...in common*) of the target group.

The Office action also submits that the combined systems of Hendricks and Herz using the profile aggregation system of Eldering would render advertising more effective because of the subgroup targeting.

Accordingly, the rejection of Claim 4 under 35 U.S.C. § 103(a) citing Hendricks (978) in view of Herz et al. and further in view of Eldering is maintained.

Rejection of Claim 8-10 under 35 U.S.C. § 103(a) citing Hendricks (978) in view of Alexander et al.

Claim 8

Applicants' Arguments:

Hendricks et al (785) disclose a system for suggesting programs offered on a program delivery system. However, there is no contemplation of such a system used with respect to a distributing program content that has already been pruned for a user category.

The Examiner suggests that this defect is cured by the teachings of Alexander et al. Although it is suggested that Alexander et al teach a device in the nature of a cable box, this still fails to cure the defect in Hendricks et al. Even in view of Alexander et al, Hendricks et al (785) fail to teach a device for providing to one or more users the program content in accordance with a user's demographic information and a contextual transition behavior profile. It should also be noted that in order to rely on this combination of references, the prior art must include a teaching that would suggest or invite this combination. That teaching is not shown by the Examiner to be present in either of these references nor in any of the other art cited by the Examiner. Accordingly, at the time of Applicant's invention, the concept would not have been obvious to a person of ordinary skill in the art in view of either Hendricks et al. (785) or Alexander et al., or any combination thereof.

Examiner's Response:

Contrary to Applicants' arguments, Hendricks does disclose a system that has already been pruned for a user category as shown in the Office action at p. 9, last ¶ (e.g., providing to the one or more users the program content in accordance with the user's demographic information and with the contextual transition behavior profile (Column 33 lines 66-67 and column 34 lines 1-19 teaches demographic user input and Column 35 lines 9-30)).

Claim 9

Applicants' Arguments:

Claim 9 recites the distinguishing limitations of Claim 8 and further recites that the user monitoring devices models the user's behavioral interaction with advertising program content and with entertainment program content. However, there is no program distributing device at the head-end side which provides to the user the program content in accordance with this type of user profile.

Examiner's Response:

Applicants fail to show why the Office action's interpretation of the feature recited in Claim 9 is not proper. For Applicants' convenience, the rejection is reproduced hereinbelow:

Referring to claim 9, depending on claim 8, Alexander teaches the preference engine according to claim 8, wherein said user monitoring device models the user's behavioral interaction with advertising program content (Column 28 lines 30-52) and with entertainment program content (Column 28 lines 30-52), and programmed to establish content preferences by combining metadata information with the contextual transition behavior profile, and to build a relational knowledge base with associations between the user's behavior, demographics, and program content preferences.

Claim 10

Applicants' Arguments:

Claim 10 includes all of the distinguishing limitations of Claim 8 and further recites a program distributing device that is connected to receive from the head-end, metadata information describing both advertising and entertainment program content. This metadata information is combined with preferences and contextual transition behaviors to build a relational knowledge base with associations among behavior demographics and program content preferences.

Although Alexander et al teach the customizing of programs in an EPG, they fail to do so in the manner recited in Claim 10, particularly in an interactive display system such as that recited in Claim 8.

Examiner's Response:

Since the rejection of Claim 10 is based on the combination Hendricks-Alexander, the feature recited in Claim 10 and considered disclosed by Alexander has to be taken in combination with those recited in Claim 8 which recites an interactive display system (FIG. 1, e.g., the set top terminal 220 which corresponds to specific television programs and menu

selections that each subscriber may access through a subscriber interface, i.e., the claimed *interactive display system*).

Rejection of Claim 11 under 35 U.S.C. § 103(a) citing Hendricks et al. (785) in view of Alexander et al. and further in view of Bedard

Applicants' Arguments:

Bedard is recited for its teachings of a behavior database having a confidence value for each entry in the database. Even though Bedard's teachings have some relationship to the additional recitations in Claim 10, there is no teaching that her concept can be embodied in an interactive display system as further recited in Claim 8.

Examiner's Response:

In response to Applicants' argument that there is no teaching that Bedard's concept can be embodied in an interactive display system as further recited in Claim 8, it is noted that besides the portions cited in the Office action at pp. 12-13, the Abstract of Bedard shows at lines 4-7 that Bedard system is clearly an interactive display system.

Rejection of Claims 11, 13, 15-18 and 21 under 35 U.S.C. § 103(a) over Hendricks et al. (978) in view of Alexander et al. and further in view of Hendricks et al. (785)

Claim 12

Applicants' Arguments:

The primary reference relied on by the Examiner in rejecting Claim 12 is Hendricks et al. (978). It is suggested by the Examiner that Hendricks et al. (978) discloses a demographic cluster knowledge based acquirer, which receives behavioral data of the user. Importantly, this acquirer of Hendricks et al (978) is not disposed on the client side as recited in Claim 12. This is of particular importance to the present invention as it permits the client information to be collected, manipulated and stored on the client side rather than on the server side where it would require a vast amount of storage to accommodate all of the users in a region.

Examiner's Response:

In response to Applicants' argument that the acquirer of Hendricks (978) is not disposed on the client side as recited in Claim 12, the examiner respectfully directs Applicants' attention to the server side aspect of Hendricks discussed in conjunction with the rejection of Claim 1.

Applicants' Arguments:

Importantly, none of these three references discloses or contemplates, either individually or in combination, a demographic cluster knowledge based acquirer, which is disposed on the client side and receives from the client's side behavioral data of the user. This is important to the present invention and is clearly recited in Claim 12.

Examiner's Response:

Applicants' attention is respectfully directed to the Office action pp. 13-15.

Claim 13

Applicants' Arguments:

Claim 13 further recites a real time feedback link for delivering to the central data system real time information with click stream data concerning the viewing behavior of the user. In order to meet these additional recitations of Claim 13, the Examiner again refers to Hendricks et al (978) for his teaching of a real time feedback link. Notwithstanding this teaching, Hendricks et al (978) fails to disclose a real time feedback link in a system which includes a demographic cluster knowledge based acquirer disposed on the client side. This additional recitation should also render Claim 13 allowable.

Examiner's Response:

Regarding Applicants' argument that Hendricks fails to teach a system which includes a demographic cluster knowledge based acquirer disposed on the client side, Applicants' attention is directed to the discussion in Claim 12.

Applicants' Arguments:

Claim 15 recites that the demographic cluster knowledge based acquirer and the program content generating module are software modules adapted to be stored on a machine-readable medium in the form of a plurality of processor-executable instructions. In order to meet these additional recitations in Claim 15, the Examiner again refers to Hendricks et al (978) for their disclosure of a network controller in a database. Notwithstanding this teaching, Hendricks et al (978), whether taken individually or in combination with any other cited art, fails to teach a demographic cluster knowledge based acquirer that is disposed on the client side. This additional recitation should also render Claim 15 allowable.

Examiner's Response:

Regarding Applicants' argument that Hendricks fails to teach a system which includes a demographic cluster knowledge based acquirer disposed on the client side, Applicants' attention is directed to the discussion in Claim 12.

Claim 16

Applicants' Arguments:

Claim 16 recites the program content delivery system wherein the demographic cluster knowledge based acquirer generates demographic cluster information of the user in terms of statistical state machine transition models. In order to meet these further limitations recited in Claim 16, the Examiner relies on Hendricks et al (978) for his teaching of correlation algorithms to modify matrices which include demographic information. Notwithstanding this teaching, Hendricks et al (978), whether considered individually or in combination with any of the other cited art, fails to teach a demographic cluster knowledge based acquirer that is disposed on the client's side of the delivery system. For this additional reason, Claim 16 should be allowable.

Examiner's Response:

Regarding Applicants' argument that Hendricks fails to teach a system which includes a demographic cluster knowledge based acquirer disposed on the client side, Applicants' attention is directed to the discussion in Claim 12.

Claim 17

Applicants' Arguments:

Claim 17 further recites the program content delivery system wherein the state machines transition models are defined in a transition matrix at the head-end side, and the transition matrix contains information

of program transitions initiated by the viewer at the client side. In order to meet these limitations, the Examiner again relies on Hendricks et al (978) for his teachings of a transition matrix using correlation algorithms to modify matrices. Notwithstanding this teaching, Hendricks et al. (978) whether considered individually or in combination with any other cited art fails to disclose a demographic cluster knowledge based acquirer, which is disposed on the client side of the delivery system. Accordingly, Claim 17 should be allowable.

Examiner's Response:

Regarding Applicants' argument that Hendricks fails to teach a system which includes a demographic cluster knowledge based acquirer disposed on the client side, Applicants' attention is directed to the discussion in Claim 12.

Claim 18

Applicants' Arguments:

In order to meet these additional limitations of Claim 18, the Examiner relies on Hendricks et al (978) for his teaching of concurrent transition matrices including a genre matrix. However, the passage referred to by the Examiner in the specification of Hendricks et al (978) does not mention a channel matrix as recited in Claim 18. Furthermore, Hendricks et al (978), whether considered individually or in combination with any of the other cited art, fails to teach a demographic cluster knowledge based acquirer, which is disposed on the client side.

Examiner's Response:

In response to Applicants' argument that the passage referred to by the Examiner in Hendricks does not mention a channel matrix, it is noted that the cited passage refers to step 430 which uses the matrix shown in FIG. 16 and FIGs. 20a-b for the calculation of the weighting of the selected group in the determining of the targeted advertisement.

Regarding Applicants' argument that Hendricks fails to teach a system which includes a demographic cluster knowledge based acquirer disposed on the client side, Applicants' attention is directed to the discussion in Claim 12.

Claim 21

Applicants' Arguments:

In order to meet these additional recitations in Claim 21, the Examiner refers to Hendricks et al (978) for his teaching of a knowledge based acquirer. Alexander is cited for his teachings regarding the determination of parallel statistical state machine transition events in at least two of three state categories. Notwithstanding the teachings of Hendricks et al (978) and Alexander et al, the combination fails to disclose a demographic cluster knowledge based acquirer that is disposed on the client side of the deliver system. Accordingly, Claim 21 should be allowable.

Examiner's Response:

Regarding Applicants' argument that Hendricks fails to teach a system which includes a demographic cluster knowledge based acquirer disposed on the client side, Applicants' attention is directed to the discussion in Claim 12.

Rejection of Claims 14 and 19 under 35 U.S.C. § 103(a) citing Hendricks et al. (978) in view of Alexander, further in view of Hendricks et al. (785), and further in view of Herz et al.

Claim 14

Applicants' Arguments:

Notwithstanding this combination of four cited references, the Examiner has failed to show in the prior art any disclosure or contemplation of a demographic cluster knowledge based acquirer that is disposed on the client side of the delivery system. Accordingly, Claim 14 should be allowable.

Examiner's Response:

Regarding Applicants' argument that Hendricks fails to teach a system which includes a demographic cluster knowledge based acquirer disposed on the client side, Applicants' attention is directed to the discussion in Claim 12.

Claim 19

Applicants' Arguments:

Notwithstanding this citation of four elements of the prior art, this combination of references fails to disclose a demographic cluster knowledge based acquirer that is disposed on the client side of the delivery system. Accordingly, Claim 19 should be allowable.

Examiner's Response:

Regarding Applicants' argument that Hendricks fails to teach a system which includes a demographic cluster knowledge based acquirer disposed on the client side, Applicants' attention is directed to the discussion in Claim 12.

Rejection of Claim 20 under 35 U.S.C. § 103(a) citing Hendricks et al. (978) in view of Alexander, further in view of Hendricks et al. (785), further in view of Herz et al. and further in view of Rabiner et al.

Applicants' Arguments:

Notwithstanding this combination of five references, the Examiner has failed to show in the prior art any contemplation of a demographic cluster knowledge based acquirer, which is disposed on the client's side of the delivery. Accordingly, Claim 20 should be allowable.

Examiner's Response:

Regarding Applicants' argument that Hendricks fails to teach a system which includes a demographic cluster knowledge based acquirer disposed on the client side, Applicants' attention is directed to the discussion in Claim 12.

According to the foregoing discussion, the grounds of rejection of amended Claims 1-21 under 35 USC 103(a) over the prior art of record are considered still proper and maintained. See previous Office action for detailed rejections.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu "Antony" Nguyen-Ba whose telephone number is (571) 272-3701. The examiner can normally be reached on Tuesday-Friday from 7:15 am to 5:35 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, John Miller can be reached at (571) 272-7353.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2600 Group receptionist (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status

information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



ANTONY NGUYEN-BA
PRIMARY EXAMINER
TECHNOLOGY CENTER 2100

January 16, 2007